

June 8, 2006

VIA ELECTRONIC MAIL

Chief Justice Clifford Taylor and
Justices of the Supreme Court of Michigan

RE: ADM #2003-47

Dear Chief Justice Taylor and Justices of the Supreme Court of Michigan:

I realize the time for public comment has now expired. However, I just had the chance to review one of the posted comments, a May 31, 2006 letter authored by Robert H. Riley from Chicago, Illinois. Mr. Riley makes so many misstatements in his letter that I simply cannot let them go unchallenged. Mr. Riley certainly demonstrates that he has never been to Michigan and has no idea about asbestos litigation in the state of Michigan. Perhaps this is what led Mr. Riley to make so many factually inaccurate, unsupportable and scandalous comments.

Mr. Riley states, in the second paragraph of his letter, that:

Michigan, like many other jurisdictions across the country,
has become a dumping ground for thousands of asbestos
claims systematically generated by for-profit litigation
screening companies.

While Mr. Riley's alarmist comments might be viewed by some as "good copy", it is absolutely untrue that Michigan "has become a dumping ground for thousands of asbestos claims." All parties agree that there are between 2,500 and 3,000 asbestos cases presently pending in Michigan. The Plaintiffs attorneys who appeared before you during the public comment on the Proposed Administrative Order represent 99% of the asbestos Plaintiffs in the state of Michigan. Thus, in direct contradiction to Mr. Riley's

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sensationalist comments, Michigan has **NOT** become a dumping ground for thousands of asbestos claims.

In the very same sentence, Mr. Riley manages to make another egregious and salacious misstatement of fact, to wit, that the “thousands of asbestos claims” he thinks were “dumped” in Michigan, were “systematically generated by for-profit litigation screening companies”. Mr. Riley obviously did no research and did not talk to any involved or interested party before making these gross misstatements. **None** of the asbestos cases pending in Michigan have been generated, systematically or otherwise, by for-profit litigation screening companies. Again, Mr. Riley has the gift of “good copy” but also has an absolute and apparently flagrant disregard for the truth.

Mr. Riley goes on to state, in the second paragraph of his letter, that:

In most cases, no treating doctor even claims to have diagnosed an impairing asbestos-related disease pursuant to the established standard of diagnostic care. Instead, litigation doctors—who disavow any doctor-patient relationship with the people who are the subject of their reports---simply declare that the x-rays are “consistent with” asbestos-related changes.

Once again, Mr. Riley demonstrates his gift for sensationalism, but unfortunately speaks from either a position of ignorance or disingenuousness. There is no debate but that in asbestos cases filed in the state of Michigan, pursuant to the Wayne County Circuit Court’s Case Management Order as utilized in Wayne County and in other counties, Plaintiffs undergo a hands-on physical examination by an expert in Occupational Medicine, receive written copies of the reports generated by said experts, and are directed to either follow-up with said experts or with their family physicians. Mr. Riley, in his haste to paint a sordid picture where none exists, either makes these statements due to his absolute ignorance regarding asbestos litigation in Michigan, or in spite of said ignorance. The fact remains, however, that Mr. Riley’s statements are **untrue**.

Finally, while Mr. Riley’s four page letter contains many more inaccurate statements than I can address here, I must take issue with his suggestion, at page three of his letter, that:

[T]he test contained in the Court’s proposals is based

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upon the American Thoracic Society and the AMA
guidelines for the evaluation of permanent impairment.

The **physicians** who testified during the public comment period, as well as those physicians who have submitted comments, categorically demonstrate that the tests in the Court's Alternatives A and B are **NOT BASED** on the American Thoracic Society's Position Statement. As with the numerous other misstatements of fact in Mr. Riley's letter, his saying that it is true does not make it so.

We hope that you will consider Mr. Riley's May 31, 2006 correspondence in the context of my statements contained herein. Simply stated, Mr. Riley obviously has no idea about the conduct of asbestos litigation in Michigan and, at the same time, has apparently little regard for the truth in addressing this Court.

Finally, on a marginally related note, I wish to point out to members of the Court, that, with the exception of two Michigan attorneys, the Memorandum of Amici Curiae, the Coalition for Litigation Justice, Inc., et al is supported exclusively by national lobbying interests for the asbestos Defendants and their insurance carriers. The point was made in discussing the legislation which was passed by the Michigan House Tort Reform Committee that said legislation was being hoisted on Michigan by out-of-state interests with national agendas. I would most respectfully suggest that the above-referenced Amici Curiae fits the same description.

The question remains, why have the national lobbying interests employed by the asbestos and insurance industries come to the state of Michigan to force an agenda on Michigan citizens which is as harmful to those citizens, as it is helpful to the asbestos companies and insurance companies who employ these lobbyists? Thank you for your attention to this matter.

Respectfully Submitted,
/s/James J. Bedortha
James J. Bedortha

JJB:sa

cc: Lane Clack, Esquire
Michael Serling, Esquire
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